



City of Houston Testimony Against Senate Bill 1152

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Good Morning. My name is YuShan Chang. I'm the senior assistant city attorney dealing with right-of-way matters for the City of Houston. Thanks to the committee for providing the opportunity to speak about Senate Bill 1152.

Houston has concerns about SB 1152 and its impact on cities and its residents.

First, SB 1152 inappropriately lumps all Texas cities together to determine how much telecommunication and cable/video service providers should compensate cities for use of the right-of-way. This is an erroneous method because the right-of-way in a major urban area like Houston is not the same and not valued the same as the right-of-way in a less-densely populated area, such as a small town. Because compensation for both services are based on number of users or amount of usage, which is reflected in the revenues and number of access lines, the right-of-way in more populated areas have and add more value to the companies. Therefore, it makes no sense to make one city's compensation dependent on other cities.

Second, SB 1152 provides either telecom and cable/video service providers free use of the right-of-way, depending on which one remits the higher compensation, even though there has not been a reduction in use of the public asset.

This is in violation of state law and constitution because it is a gift of public funds to private entities. There is no mention of passing the service providers' cost savings to its customers or otherwise sharing such a windfall with the public.

No cost analysis, study, or rationale has been provided as to why the millions of dollars are being gifted to the telecom and cable/video industry at the expense of taxpayers. The established and recognized legal standard for determination right-of-way compensation is based on market value and is reflected in current state law. Houston has been collecting right-of-way use fees since 2000 under Chapter 283 for telecommunications and 2005 for Chapter 66 for cable/video. The total fees paid by telecommunications providers have decreased 20% since 2000. They have remained at the same 5% of gross receipts for cable/video since 2005.

It is important to note that it is the cities that made the investment to provide infrastructure, amenities, encourage development that maintain and attract residents, which provide a ready customer base for telecom and cable/video service providers and made it attractive enough for them to want to provide service in these cities. The industry is profiting from the cities'

investments that have led to a growing or steady population. Now SB 1152 proposes to give the industry even more benefits, but at taxpayer's expense.

The cost of maintaining the right of way for health, public, and safety purposes is much more than merely fixing the streets. It also includes acquiring property for water service, sidewalk additions for pedestrians and mobility-impaired individuals, responding to calls about incidents in the right-of-way, clearing debris from the right-of-way, traffic control, and signage among other things.

SB 1152 is estimated to reduce Houston's compensation from \$17 million to \$27 million annually. This will affect the level of service the City provides to its residents. For example, this is the amount that funds one of the following:

- Departments that directly and indirectly provide maintenance and support of Houston's right of way, such as planning and development, neighborhood services, human resources
- The City's equipment budget
- 707 police cadets
- 225 classified employees
- 337 full time civilian employees

Third, SB 1152 may also be difficult to implement. There is no mention about who will calculate fees collected from all cities. There is no provision for what happens when fees are audited or challenged by cities. If they are, everyone may have to wait until that's resolved. Houston is required to maintain a balanced budget annually. SB 1152 would require cities to estimate the decisions of multiple cable and video/service providers based on revenue generated in prior calendar years across thousands of cities in Texas. This is an near impossible task and would make it onerous for Houston to prepare an accurate and reliable budget.

Houston, like all other cities, is the only authority that can appropriately discuss the cost, as well as value, of its right-of-way. Any discussions about compensation for its use should involve cities.